

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED

JUL 12 2018

Clerk, U.S. Courts
District Of Montana
Missoula Division

ROBERT STEARNS,

Petitioner,

vs.

JAMES SALMONSON,

Defendant.

CV 18-12-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Amended Order and Findings and Recommendations (Doc. 8) in this case on April 17, 2018, recommending dismissal of Petitioner Robert Stearns' ("Stearns") petition for writ of habeas corpus under 28 U.S.C. § 2254. Stearns timely filed an objection on April 26, 2018. (Doc. 9.) Consequently, Stearns is entitled to de novo review of those findings and recommendations to which he has specifically objected. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000)

(citations omitted). “A party makes a proper objection by identifying the parts of the magistrate’s disposition that the party finds objectionable and presenting legal argument and supporting authority, such that the district court is able to identify the issues and the reasons supporting a contrary result.” *Montana Shooting Sports Ass’n v. Holder*, 2010 WL 4102940, at *2 (D. Mont. Oct. 18, 2010) (citation omitted).

Judge Lynch found, and this Court agrees, that that this matter should be dismissed because Stearns has not filed an individual petition for habeas corpus relief as directed. Stearns is precluded from filing his request for habeas relief en masse with other petitioners. Stearns’ objection is entirely untethered to Judge Lynch’s Findings and Recommendations and merely rehashes the grievances aired in his petition and supplement. Thus, this Court reviews the record for clear error. L.R. 72.3(a); *see also McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Finding none,

IT IS ORDERED that Judge Lynch’s Findings and Recommendations (Doc. 8) are ADOPTED IN FULL. Stearns’ Petition (Doc. 2) is DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the Clerk of Court is directed to enter a judgment of dismissal.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 12th day of July, 2018.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, stylized initial "D".

Dana L. Christensen, Chief Judge
United States District Court